



**Approved  
SCOTTSDALE CITY COUNCIL  
JOINT TASK FORCE ON THE ARTS  
PUBLIC MEETING**

**WEDNESDAY, MAY 10, 2006**

**SCOTTSDALE CULTURAL COUNCIL ANNEX CONFERENCE ROOM  
MERCADO VERDE BUILDING, 7373 E. SCOTTSDALE MALL, SUITE 18  
SCOTTSDALE, AZ 85251**

**PRESENT:** Wayne Ecton, Councilman  
Betty Drake, Councilwoman  
Ron McCullagh, Vice Mayor  
Louise Roman, Scottsdale Cultural Council Board  
Dick Hayslip, Scottsdale Cultural Council Board  
Gail Bradley, Scottsdale Cultural Council Board (arrived at 11:38 a.m.)

**STAFF:** Frank Jacobson  
Michelle Korf  
Cheryl Barcala  
Craig Clifford  
Art Rullo  
Valerie Vadala Homer  
Margaret Bruning  
Jim Green

**CALL TO ORDER/ROLL CALL**

A meeting of the Joint Task Force on the Arts was called to order by Co-Chairman Hayslip at 11:30 a.m. A formal roll call confirmed Members present, as noted above.

**GENERAL BUSINESS**

**1. Approval of Minutes of April 25 Meeting**

**CO-CHAIRMAN HAYSLIP SUGGESTED APPROVAL OF THE MINUTES  
OF THE APRIL 25, 2006 MEETING. COUNCILMAN ECTON AND  
COUNCILWOMAN DRAKE CONCURRED.**

## 2. **Outstanding Audit Recommendation**

Ms. Korf recalled the recent Percent for Art audit recommendations reviewed by the Task Force during the previous meeting, noting that the issue relating to the Cultural Council's accounting methodology for Public Art Program monies needed further discussion.

Ms. Cheryl Barcala of the City of Scottsdale City Auditor's Office explained that the Percent for Art audit report falls under the umbrella of the Management Services Agreement because the Cultural Council has the responsibility for making decisions on the art that is purchased with Percent for Art funds. She also cited a specific provision in Section 5 of the Management Services Agreement that requires that Percent for Art funds must be kept separate from the funding that the Cultural Council receives from the City for other administrative purposes. Likewise, Section 4 of the Management Services Agreement states that the Cultural Council must have an accounting system that is in compliance with generally accepted accounting principles and follows the not-for-profit guide.

Ms. Barcala cited issues relative to the provisions outlined in the current Management Services Agreement; specifically that the Agreement references a document that does not exist and that not-for-profit organizations are no longer required to follow fund accounting.

Ms. Barcala acknowledged that the Cultural Council has established separate funds and that the public art money is maintained in a separate fund, but explained that the reason for the particular audit recommendation was due to the uncertainty of whether or not fund accounting was actually a requirement, since it is no longer a requirement under generally accepted accounting principles. She elaborated that the City cannot require the Cultural Council to follow fund accounting under the current Management Services Agreement. The recommendation was intended to determine if the City could, based upon the language in the current Management Services Agreement, require the Cultural Council to follow fund accounting principles. In the event that the City cannot require the Cultural Council to follow fund accounting principles, the recommendation suggests that the Cultural Council present invoices for services and the City would then pay the Cultural Council based on the invoices, in an effort to keep the money separate.

In response to inquiry by Co-Chairman Hayslip regarding the determination of the suggested approach, Ms. Barcala explained that as long as the Public Art Fund can be a self-balancing fund where the assets are kept separately and invoices accurately reflect "due to and from," the funds can be reconciled and the issue is then resolved. Jim Green, Cultural Council CFO, concurred, noting the specific distinction in terms of how the transactions are recorded.

In response to a question by Co-Chairman Hayslip, Ms. Korf acknowledged that the issue is to be handled in the context of the renewal of the contract, but may also be appropriately incorporated into the new Ordinance.

Ms. Barcala also explained that the Public Art Program in the Management Services Agreement includes much more than just the expenditure for public art, because the Public Art Program also incorporates the maintenance of the City's collection. Pursuant to Section 5 of the Management Services Agreement, as currently written, monies given by the City to the Cultural Council, even if specifically earmarked for maintenance, would become part of the City's allocation for the Public Art Program and would need to be restricted and kept separate.

In response to comments by Councilwoman Drake regarding the transfer of art conservation and maintenance to SMOCA, Mr. Jacobson explained that as the museum evolved over the last several years, a classification was placed on all of the objects in the City collection of fine art. In legal terms, the City collection of fine art is one overall collection asset of the City, whereupon by contract, works are accepted on behalf of the City.

Mr. Jacobson explained that for Cultural Council purposes, the collection was classified into three separate categories: public art commissions, the municipal collection and the museum collection. The distinction between the municipal collection and the museum collection are determined by the appropriateness of what items are in SMOCA because of its focus on contemporary art, architecture and design. Additional consideration is given based upon the value of the pieces. Pieces exhibited in public offices are not museum pieces.

Mr. Jacobson clarified that the proposal made to the City for conservation and the conservation assessment relates to SMOCA's collection. The proposal does not utilize public art funds. Instead, it requests separate funding and would be an add-on to the Cultural Council contract.

Referring to the current Management Services Agreement, Ms. Barcala noted that Section 5.2, the Public Art Program, states that the Cultural Council is responsible for maintenance of the fine art collection. Furthermore, if the Cultural Council receives money for the responsibilities under 5.2, those monies are restricted and can only be used for that particular program.

Ms. Barcala noted the issue between whether or not the fine arts collection is split out is not defined in the current contract. The Management Services Agreement clearly states that maintenance of the collection is part of the Public Art Program. The Agreement was written with the understanding that SMOCA would become a managed facility. Currently, if the City provides money for the maintenance of the collection, there would be an issue of whether it could be added on to the lump sum that the City grants the Cultural Council for other responsibilities, or if it would need to be part of the Public Art Program and be restricted and accounted for separately.

### 3. **Public Art Ordinance Update**

Ms. Valerie Homer gave a PowerPoint presentation highlighting the Public Art Program goals and work plan for FY 2007, in support of the Public Art Master plan. Ms. Homer briefly addressed opportunities for program expansion and the importance of continuing maintenance of Scottsdale art. In closing, Ms. Homer acknowledged the need to adopt program performance measures, directing the meeting to a draft of proposed performance measures included in the meeting packet. A brief discussion ensued regarding the difficulty involved in attempting to establish appropriate performance measures.

Citing a report published by Americans for the Arts, Ms. Homer noted that industry standards suggest that direct salary costs should be 24.6 percent of the entire project budget, whereupon discussion ensued. Mr. Jacobson noted that salaries are in percentage to the total project expenditures.

In response to inquiry by Co-Chairman Hayslip regarding performance measures utilized by other arts organizations, Ms. Homer committed staff to continue researching the matter.

Co-Chairman Hayslip asked what type of performance measures were encouraged in the audit. Ms. Barcala reported that specific performance measures were not recommended in the audit, but reiterated that the Public Art Program that is in the Management Services Agreement is broader than the Public Art Program that the Cultural Council handles. She suggested that the Task Force consider these issues when moving through the Management Services Agreement and the performance measures. She also noted that defining the public art program is a primary issue.

Ms. Homer acknowledged the issues related to working with a 25-year old ordinance, when aspects such as temporary public art were not even envisioned. Ms. Homer also noted that the Cultural Council is a non-profit organization and the auditor viewed the Cultural Council through the lens of a City program.

Ms. Barcala explained that the current structure outlined in the Management Services Agreement states that the Cultural Council is administering the City's Public Art Program. The City pays 100 percent of those costs. From the City's perspective, if the City is paying 100 percent of those costs, then there should be some input into what programs are going to be offered. This is the reason for the recommendation that City Council review the expansion of the Public Art Program. Ms. Homer acknowledged that if the program funding structure were to change, then perhaps the dynamics would also change.

Co-Chairman Hayslip requested further definition of what constitutes an expansion of the scope of the program. Ms. Barcala said the Management Services Agreement sets out the Public Art Program responsibilities as accession, de-accession of the City's collection and the decision on the use of the Arts in Public Places fund. The City views expansion of the scope of the program as "anything that grew outside of those particular responsibilities."

Councilman Ecton opined that the decisions related to defining public art and how public art is maintained should rest with the Cultural Council and that the new Ordinance needs to be very clear in that respect.

Art Rullo began a PowerPoint presentation, outlining information included in the meeting packet. Highlights included current funding sources and practices related to the City's contribution to art; FY 2006-2007 Scottsdale Public Art Program Project Plans; a working five-year Public Art Project Plan; Arts In Public Places Funding Process; and Types of Funding Source Restrictions.

Discussion ensued during the presentation regarding pooled funding and issues related to projects with limited funding. Mr. Clifford explained that when the original art ordinance was established, it called for a de minimis amount of the City's total capital budget in a pooled concept in order to have flexibility in decisions about art. This was a good concept but there are practical and legal concerns that must be dealt with on an ongoing basis. He stressed the importance of striving for a blend between flexibility and pooling funds. Mr. Clifford noted the recession experienced by the City following 9/11 and posed the question: If there are allocations in different projects for public art, are you mandating that public art continue to be done when the City is in a funding crisis? Ms. Barcala noted that a project may also experience shortfalls in the event that changes occur in the construction environment, resulting in an unexpected increases in the cost of materials.

Mr. Clifford explained that the literal interpretation of the Ordinance is "one percent of everything." The City has not historically practiced this due to legal restrictions, which were acknowledged even at the time that the Ordinance was adopted. As a result, staff has tried to manage the Percent for the Arts Program in a way that preserved compliance.

Vice Mayor McCullagh noted the project on the north side of the new water treatment plant at Hayden and McDonald. Mr. Clifford acknowledged that the project is a good example, elaborating that the bond projects are restricted sources that need to be site or project specific in order to comply with the underlying funding restrictions.

Councilwoman Drake asked if funding issues need to be laid out in detail in the new Ordinance. Mr. Clifford answered in the affirmative, noting that the initial overlaying concept was nice, but as pointed out in the audit, technically the City is not in compliance. The issue also needs to be addressed and laid out in very specific terms, ensuring that everyone is aware of what is in the calculation.

Mr. Rullo continued the PowerPoint presentation, addressing "Other Considerations for the Task Force." Highlights of this portion of the presentation included: Capital Project Asset Type and Relationship to Art, Impact on Project Budget; Capital Budget as a Funding Source; Percentage for Art Acquisition/Integration and Geographical Nexus; Funding for Recurring Maintenance and Administrative Costs; New Acquisition Funding, Routine Review and Updating of the New Arts Ordinance and a Three Part Assessment for Arts Eligibility.

Brief discussion ensued surrounding the dynamic nature of capital projects; noting the use of Scottsdale funds on the regional treatment facility in Phoenix. Discussion followed regarding cooperative regional projects. Mr. Jacobson suggested that the issue be considered when drafting the new Ordinance.

Continuing the presentation, Mr. Rullo highlighted an overview of current funding sources, including a comparative funding scenario spreadsheet.

Mr. Clifford reiterated points addressed during the previous meeting, requesting that a specific dollar amount needed for the arts be identified. He opined that the percentage concept, combined with the administrative burden and compliance with all of the legal restrictions, is not practical. He suggested that perhaps a better concept would be to triple the unrestricted sources and change the Ordinance to reflect allocation of two percent of unrestricted capital sources.

Councilman Ecton suggested that there is some middle ground to work with, and opined that there needs to be a clearly defined budget identifying specific projects that can also be flexible on the percentage that applies to the unrestricted sources.

Mr. Clifford suggested the concept of establishing an annual minimum or maximum, to provide some planning for the Financial Services Department as well as planning for the arts program. This would also provide the opportunity to review the budget annually.

Councilwoman Drake asked how other cities have dealt with this issue. Ms. Homer reported that other cities are still heavily funded on the Ordinance based model. The only thing most municipalities do not fund out of the CIP is conservation and restoration. Staffing and other program funds are funded through the CIP model.

Ms. Barcala noted that some of the other cities' ordinances have keyed in on construction projects as opposed to capital improvement projects. Councilwoman Drake requested that staff obtain more detail on these items for consideration in drafting the new Ordinance.

In response to inquiry by Ms. Roman regarding build-out, brief discussion ensued regarding the addition of more art pieces. Ms. Homer acknowledged noted this and the importance of a high quality temporary art program.

Mr. Clifford noted that the City's current total capital program is large in order to accommodate new acquisitions and construction of major facilities. The capital program may decrease as the City matures, but will maintain a major or capital component for repair and replacement. Mr. Clifford acknowledged that the capital program will always be a funding source.

Councilman Ecton opined that this was a great presentation because it demonstrates that there needs to be complete coordination and cooperation. He strongly concurred with the suggested review period to ensure that the new Ordinance and agreement are still on track.

Mr. Clifford stressed the importance of first establishing the program needs and priorities and then moving to the next stage of determining appropriate funding. In response to an observation regarding the management complexities by Ms. Bradley, Mr. Clifford estimated that there are approximately 30 different funding sources in the capital program and 370 projects that would have to be evaluated, just to ensure that the requested funds can be allocated.

Ms. Bradley inquired about the negative consequences of taking funds from the General Fund. Mr. Clifford explained that the consequences result from the funds being allocated from one funding source and the General Fund helps fund all of those projects that do not have already have dedicated funding. Legally, the City can take money from other funding sources, as long as it is de minimis.

Vice-Mayor McCullagh observed that use of the General Fund is scrutinized every year, and in general, use of these funds are compared to other needs such as public safety or ballparks. Brief discussion ensued in support of continuing the funding in a model that resembles a de minimis share of the capital projects in the CIP in order to insulate the funds, as well as managing the budget from a planning standpoint.

#### **4. Future Meetings**

Discussion ensued to identify future meeting dates. The next scheduled meeting will occur on May 24th, followed by a subsequent meeting on June 20th.

Ms. Korf acknowledged that staff currently has enough information to begin a draft of the new Ordinance as it relates to the publicly funded portion of the Percent for Art. Ms. Korf suggested that discussions at the next meeting focus on the art in private development ordinance, as well as the sculpture pad ordinance. Task Force Members concurred.

#### **UPCOMING MEETINGS**

**Next Meeting: Wednesday, May 24, 11:30 a.m., Scottsdale Cultural Council Annex Conference Room, Mercado Verde Building**

#### **PUBLIC COMMENTS**

None.

#### **ADJOURNMENT**

With no further business to discuss, the meeting adjourned at 12:59 p.m.

Respectfully submitted,  
A/V Tronics, Inc.